

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2860 of 2018
and C.M.P.No.23757 of 2018

C.M.Anbarasan ... Appellant

Vs.

1.The Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

3.The Joint Director of School Education,
(Vocational Education),
DPI Campus, College Road,
Chennai - 600 006.

4.The Joint Director of School Education,
(Higher Secondary),
DPI Campus, College Road,
Chennai - 600 006.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the Order dated 11.06.2018 made in W.P.No.15023 of
2012.

Prayer in W.P.No.15023 of 2012:

Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of
Certiorarified Mandamus Calling for the records relating the
impugned order of the 1st respondent issued in letter No.
3047/MNK2/2011-2 dt 23.6.2011 and to quash the same and
consequently direct the respondents to promote the
petitioner as P.G. Assistant (English).

For Appellant : Mr.G.Sankaran
For Respondents : Mr.C.Munusamy
Special Government Pleader (Education)

J U D G E M E N T

(Order of the Court was delivered by S.MANIKUMAR, J)

Instant writ appeal is directed against the order dated 11.06.2018 made in W.P.No.15023 of 2012, by which the writ Court, rejected the request of the appellant to promote him as P.G.Assistant (English).

2. Short facts leading to the filing of writ appeal are as follows:

(i) Petitioner was appointed as a part-time vocational Instructor on 07.01.1985 and is now working as General Mechanist Vocational Grade-I Instructor in Government Higher Secondary School, Jayakondam. At that time of appointment, he has possessed Higher Secondary and I.T.I. Qualification. Subsequently, he acquired B.A.(English) In Annamalai University. He has also passed B.Ed. in Indira Gandhi National University and M.A. (English).

(ii) According to the petitioner, pursuant to the order of this Court in W.P.Nos.9780 of 1995 and 14027 of 1996 Government have absorbed 1049 Grade II Vocational Instructors, including the petitioner, as Grade-I Vocational Instructor post and granted B.T.Assistant scale of pay from 05.10.1996. The petitioner has completed his probation on 04.10.1998 and received selection grade scale of pay from 05.10.2006.

(iii) According to the petitioner, he being fully qualified for the post of B.T.Assistant and having put in 15 years of unblemished service, has not been given any promotion till date. Though the petitioner is similarly placed in the cadre of other B.T. Assistants and Tamil Pandits for promotion to the post of P.G. Assistant, his name was not included in the P.G.Assistant promotion panel.

(iv) According to the petitioner, G.O.Ms.No.266, dated 18.10.2000 provides that if qualified persons possessing B.A. (English) and M.A. (English) are not available, then the remaining vacancies can be filled up by available persons. The petitioner possesses both B.A. (English) and M.A. (English) and, therefore, his candidature should be given preference. Therefore, he sent a representation dated 13.04.2010 to the respondents and as there was no response, he filed W.P.No.29555 of 2010, praying to consider his representation. Said writ petition was disposed of by this Court by directing the Secretary, to the Government of Tamil Nadu, School Education Department. Chennai, the first respondent to consider the petitioner's representation. Pursuant to the order of this Court, first respondent considered and on 23.06.2011 rejected the petitioner's representation on the ground that there is no specific rule for Vocational Instructors to be considered for promotion

and Vocational Instructor is not a feeder category, for promotion to the post of P.G.Assistant. Challenging the same, petitioner filed W.P.No.15023 of 2012.

3. Before the writ Court, second respondent filed counter stating that the Vocational Instructors are not qualified for promotion as P.G.Assistant (English) and Vocational Instructors are not given promotion as P.G.Assistant so far. Therefore, the petitioner is not entitled to get the relief as prayed for in the writ petition.

4. After hearing learned counsel for the petitioner and the learned Additional Advocate General for the respondents, writ Court dismissed W.P.No.15023 of 2012 vide order dated 11.06.2018. Relevant portion of the said order is extracted hereunder.

9. I heard Mrs.P.Mahalakshmi, learned counsel appearing for the petitioner and Mr.K.Venkatramani, learned Additional Advocate General assisted by Mr.A.Rajaperumal, learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

10. It appears that earlier some of the Vocational Instructors have filed writ petitions, being W.P.No.9780 of 1995 and 14027 of 1996, seeking to regularise their services and to absorb them into B.T. scale of pay instead of Secondary Grade and also to count their service for reckoning seniority for their initial date of appointment. By an order dated 08.07.2004, a Division Bench of this Court disposed of the writ petitions. The operative portion of the order reads as under:

"17. Having regard to all these aspects, we feel interest of justice would be served by passing the following directions :-

(i) unqualified vocational instructors who have been subsequently adjusted against secondary grade scale of pay on completion of their training, as envisaged in G.O.Ms.No.834 dated 23.9.1994, shall be deemed to have been regularised in B.T. scale of pay with effect from the dates of their regularisation in the secondary grade scale of pay and their seniority would be counted on the basis of such deemed date of regularisation.

(ii) Inter-se seniority of such persons shall be dependent upon their initial entry as part time vocational

instructors, whether single or double.

(iii) Increments shall be calculated notionally from the deemed dates of their regularisation.

(iv) However, arrears on account of difference in the scale of pay and on account of notional increments are not payable and such persons shall be paid salary in B.T. Scale from the date of judgment only by taking into account the notional increments."

11. Pursuant to the order of the Division Bench of this Court, the Government issued G.O.Ms.No.69, dated 20.03.2007 absorbing 1049 Grade-II Vocational Instructors, including the petitioner, into Grade-I Vocational Instructor post and granted B.T. scale of pay from 05.10.1996.

12. The grievance of the petitioner is that inasmuch as the Vocational Instructors are governed by the Tamil Nadu Subordinate Service Rules, as applicable to B.T. Assistant and Tamil Pandit, and are brought under the set of common rule, the respondent authorities cannot discriminate the Vocational Instructors while granting them the benefit of promotions.

13. Opposing the argument of the learned counsel for the petitioner, the learned Additional Advocate General submitted that as per the present rules in force, the Vocational Instructors are not eligible to be considered for promotion. Therefore, the Vocational Instructors are not qualified for the promotion as P.G. Assistant (English).

14. It is to be noted that the petitioner is only a Vocational Instructor. As per the Special Rules for the Tamil Nadu Higher Secondary Educational Service, the P.G. Assistants in Language subjects come under Class II and Category (2) and the method of recruitment is as follows:

Post Graduate Assistant in Languages	(i) Director recruitment (ii) Recruitment by transfer from Categories 3 and 5 of Class II of Tamil Nadu Educational Subordinate Service (Deputy Inspector of School, School Assistants, Block Resource Teacher Educator, Pandits and Munshis Grade 1)
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15. I find that there is no provision made in the Special Rules for the Tamil Nadu Higher

Secondary Education Service to give promotion to the Vocational Instructors. Therefore, in the absence of enabling rules, the petitioner, though getting the time scale of pay in the cadre of B.T. Assistant, cannot be promoted as P.G. Assistant as requested by him. Since the petitioner is a Vocational Instructor, he was not qualified for promotion as P.G. Assistant (English).

16. No proof has been produced by the petitioner to show that Vocational Instructors were given promotion to P.G. Assistant. On the other hand, the respondent authorities contended that Vocational Instructors were not qualified for the promotion as P.G. Assistant (English) and so far nobody was promoted to the post of P.G. Assistant (English). When such being the statement of the respondent authorities, how could the petitioner seek relief of promotion as P.G. Assistant (English).

17. Merely receiving the time scale of pay in the cadre of B.T. Assistant will not entitle the petitioner for being promoted as P.G. Assistant (English). No material was produced by the petitioner to show that Vocational Instructors are feeder category.

18. It is pertinent to note that the Division Bench of this Court in W.P.Ns.9780 of 1995 and 14027 of 1996, has not given any specific direction to promote the Vocational Instructors and only the scale of pay of the Vocational Instructors have been increased based on their service.

19. Finding that there is no specific rule for Vocational Instructors to be promoted as P.G. Assistant (English), the first respondent has passed the impugned order rejecting the request of the petitioner. I find that only after analysing the existing rule position and also considering the relevant Government Orders, the first respondent has rejected the representation of the petitioner dated 30.09.2010.

20. It is seen that by an order dated 23.12.2010 in W.P.No.29555 of 2010, the learned Single Judge of this Court disposed of the writ petition filed by the petitioner directing the first respondent to consider the application/representation dated 30.09.2010 to promote him as P.G. Assistant (English) in the light of G.O.Ms.No.132, Education, Science and Technology Department dated 21.02.1995 subject to the condition that the petitioner is eligible for such post.

21. While considering the representation of

the petitioner, the first respondent noted that G.O.Ms.No.132, dated 21.02.1995 will not apply to the case of the petitioner and there is no provision in the Special Rules to give promotion to the Vocational Instructors as P.G. Assistant. Admittedly, the petitioner has not shown any material that G.O.Ms.No.132, dated 21.02.1995 will be applicable to the case of the petitioner as observed by the learned Single Judge in the earlier order in W.P.No.29555 of 2010.

22. As stated supra, since there is no provision made in the Special Rules for the Tamil Nadu Higher Secondary Educational Service, to give promotion to the Vocational Instructors as P.G. Assistant and since so far no Vocational Instructor was given promotion as P.G. Assistant, the first respondent was right in rejecting the representation of the petitioner. I do not find any infirmity in the impugned order and, I am of the firm view that the same has been passed as per the existing rule position. Moreover, the order impugned is a reasoned one.

23. The writ petition is dismissed. No costs. Consequently, M.P.No.1 of 2012 is closed."

5. Aggrieved by the abovesaid order, instant writ appeal has been filed on the following grounds.

(a) that the writ Court, while passing the orders in the writ petition, has not appreciated the fact that Service Rules framed under Article 309 of Constitution of India for the post of Vocational Instructor, notified in G.O.Ms.No.6, School Education (V.E.) Department dated 04/01/2000 have made it clear that the Special Rules applicable to the holder of a permanent post in Tamil Nadu Education Subordinate Service shall apply to the holders of temporary post of Vocational Instructors. Therefore, the appellant who has been regularized in the post of Vocational Instructor, in the scale of pay applicable to the post of B.T. Assistant is governed by the provisions of Special Rules for Tamil Nadu School Education Subordinate Services, inter alia eligible for promotion to the post of PG Assistant, based on the qualification acquired by him.

b) that the Writ Court has not appreciated the fact that the State Government have issued orders in G.O.Ms.No.185 Education (V.E.) Department dated 25/08/2008 by referring to the applicability of Special Rules for Tamil Nadu School Education Subordinate Service to the post of Vocational Instructor, with directions that Vocational Instructor in Commerce and Business, on acquiring the requisite qualification, are eligible for promotion to the post of PG Assistant Commerce.

c) Therefore, when the Vocational Instructor in Commerce becomes eligible for promotion to the post of PG Assistant in Commerce in Tamil Nadu Higher Secondary Education Service based on the Service Rules notified in G.O.Ms.No.6 dated 04/01/2000, Vocational Instructor for other subjects, are also governed by the same Service Rules, and thus become eligible for promotion to the post of PG Assistant, in accordance with qualifications and they cannot be discriminated.

d) The method of appointment to the post of Vocational Instructor is one and the same. Subsequently, Vocational Instructors in all subjects have been brought into regular establishment, with time scale of pay applicable to the post of B.T.Assistant, by a common order. Thereafter, in exercise of powers conferred by the proviso to Article 309 of Constitution of India, Service Rules have been framed in G.O.Ms.No.6 dated 04/01/2000 for Vocational Instructors, in all the subjects. Said Service Rules have further provided that the Special Rules for Tamil Nadu School Education Subordinate Services would be applicable to the post of Vocational Instructor in all the subjects. Accordingly, when the Vocational Instructors in Commerce, governed by Service Rules notified in G.O.Ms.No.6 dated 04/01/2000, were made eligible for promotion to the post of PG Assistant in Commerce, the same yardstick should be made available to Vocational Instructors of other subjects also, without any discrimination.

e) When Service Rules framed in G.O.Ms.No.6 dated 04/01/2000 are made applicable to the holders of the post of Vocational Instructors, for all the subjects, it cannot be stated that applicability of Special Rules is restricted only to the post of Vocational Instructor in Commerce alone by an Executive order issued in G.O.Ms.No.185, School Education (V.E.) Department dated 25/08/2008. Government Order is ultra vires and unconstitutional.

(f) Having issued G.O.Ms.No.185, School Education (V.E.) Department dated 25/05/2008 to consider Vocational Instructors in Commerce for promotion to the post of PG Assistant in Commerce by recruitment by transfer, State Government should extend the same benefit to Vocational Instructors, in other subjects also, since G.O.Ms.No.6 dated 04.01.2008, issued is for both Vocational Instructors in Commerce, and all other subjects.

(g) Respondent State Government ought to have considered that if a Vocational Instructor in other subjects in the cadre of B.T.Assistant, is not considered for promotion to the post of PG Assistant based on the qualification acquired, he would be stagnated, in the same post from the date of appointment till the date of retirement without any promotional opportunity in his entire

service carrier which has been discountenanced by the orders of Hon'ble Supreme Court of India in catena of decisions followed by orders of this Hon'ble Court.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. G.O.Ms.No.132, Education, Science and Technology Department dated 21.02.1995, reads thus:

GOVERNMENT OF TAMIL NADU

ABSTRACT

Elementary Education - Appointment of qualified and eligible Secondary Grade teachers working under Tamil Nadu Elementary Education Subordinate Service as School Assistants, under Tamil Nadu School Educational Subordinate Service and P.G. Assistants in academic subjects and languages under Tamil Nadu Higher Secondary Educational Service-10% Reservation under direct recruitment - Orders - issued.

EDUCATION, SCIENCE AND TECHNOLOGY DEPARTMENT

G.O.Ms.No.132

Dated:

21.2.95

Read:

1. G.O.Ms.No.79. Education, dated 18.1.90

Read also;

1. From the Director of Elementary Education, Lr.Rc.No.13621/ED 1/93, dt.3.11.93

2. From the Director of School Education, Lr.Rc.No.1729587C1/94, dt.3.1.95

ORDER:

There have been consistent representations from the qualified Secondary Grade teachers and other teachers working under the Tamil Nadu Elementary Education Subordinate Service (erstwhile Panchayat Union school teachers) for appointing them as B.T. Assistants in Government High Schools and P.G. Assistants in Government Higher Secondary Schools.

2. The Government have already made previous reserving 10% vacancies under direct recruitment of the post of Deputy Inspector of Schools and School Assistants in Government High Schools and 10% of the vacancies under direct recruitment of the posts of R.G. Assistants in academic subjects/languages in Higher Secondary Schools for the Secondary Grade teachers and other teachers with Secondary Grade scale of pay in recognized Higher Secondary Schools, High Schools, Middle Schools and Elementary Schools under the local bodies (Corporation or Municipal) and all aided managements vide the Government Order read above.

The above reservation, now ever, does not benefit the Elementary School teachers under the Tamil Nadu Elementary Education Subordinate Service (erstwhile Panchayat Union School Teachers).

3. The Government considered the request of the Secondary Grade and other Teachers sympathetically. They considered that in the interest of the Students community the services of the teachers who have gained considerable amount of teaching experience should be properly utilized so that the standard of education is improved. Therefore, they have decided to accept the request of the Secondary Grade teachers working under Tamil Nadu Elementary Education Subordinate Service for their appointment as School Assistants in Government High Schools and P.G. Assistants in academic subjects/languages in Higher Secondary Schools by reserving 10% of the vacancies under direct recruitment.

4. They accordingly direct that 10% of the vacancies under direct recruitment of the posts of School Assistants in Tamil Nadu School Educational Subordinate Service and 10% of the vacancies under direct recruitment of the posts of P.G. Assistants in academic subjects/languages in Tamil Nadu Higher Secondary Educational Service be reserved for appointment by the qualified and eligible Secondary Grade Teachers coming under Tamil Nadu Educational Subordinate Service.

5. The Tamil Nadu School Educational Subordinate Service and Tamil Nadu Higher Secondary Educational Service Rules will be amended separately with reference to the orders in para. 4 above-.

K.DEENBANDU

JOINT SECRETARY TO GOVERNMENT

8. In exercise of the powers under Article 309 of the Constitution of India, Government have issued G.O.Ms.No.6, School Education (VE) Department dated 04.01.2000, framing service rules for Vocational Instructors, in the scale of pay of B.T.Assistants. Government Order reads thus.

GOVERNMENT OF TAMIL NADU

ABSTRACT

Education Higher secondary vocational education-adhoc rules for the posts of vocational instructors in higher secondary schools - issued

Read:

1. G.O. Ms. No. 1719, Education dated 14-9-

78.

2. From the Director of school education

letter No.

24106/c24/91 dated 10.1.92
and letter dated 20.2.93. 19.12.95,
24.12.96 and
10.1.97

3. G.O. Ms. No. 834 education science and
technology dated
23.9.94.

G.O.Ms.No.6 SCHOOL EDUCATION (VE) DEPARTMENT Dated
4.1.2000

ORDER:-

The following notification will be published
in Tamilnadu Government Gazette:-

In exercise of the powers conferred by the
proviso to article 309 of the Constitution of
India the Governor of Tamil Nadu hereby makes the
following rules:-

2. The rules hereby made shall be deemed to
have come into force on the 23rd day of September
1994.

RULES

The general and special rules applicable to
the holders of permanent posts in the Tamil Nadu
school Educational Subordinate service shall apply
to the holders of the temporary posts of
vocational instructors sanctioned from time to
time in Higher Secondary schools for Home Science,
for commerce and Business, Agriculture.
Engineering and technology, Health Photography and
Music subjects to the modifications specified in
the following rules:-

1. Vocational Instructors for Home Science
2. Vocational Instructors for Commerce and
Business
3. Vocational instructors for Agriculture
4. Vocational Instructors for Engineering and
Technology
5. Vocational Instructors for Health
6. Vocational Instructors for Photography and
Music

2. Constitution: The post shall constitute a
separate category in separate class of the said
service

3. Appointment: Appointment to the posts shall be
made as follows:-

(i) by Direct Recruitment; or

(ii) by promotion from the post of secondary grade

teacher in the Tamilnadu School educational subordinate service; or

(iii) By transfer from any class or category in the service; or

(iv) By recruitment by transfer from any other service.

4. Appointing Authority: The appointing authority for the post shall be the Joint Director of school education (Higher Secondary Education)

5. Qualification (a). Age: No person shall be eligible for appointment to the post by direct recruitment, if he has completed or will complete thirty five years of age on the first day of july of the year in which selection for appointment is made. (b) Other Qualifications:- No person shall be eligible for appointment to the post in respect of vocational subject specified in column (1). of the table below unless he / she possess the qualifications specified in the corresponding entries in column (2). Thereof. As regards the practical experience prescribed in column (3), the respective appointing authorities shall ensure that the practical experience required is gained only from a firm / institution which enjoy reputation in the respective field and is in existence.

THE TABLE

Subject (1)	Qualifications (2)
VOCATIONAL INSTRUCTORS FOR HOME SCIENCE	
(1) Food preservation	(a) Relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.

Subject (1)	Qualifications (2)
(2) Baking and Confectionery	(a) Relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.
(3) catering	(a) Relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.
4), Dietetics, Nutrition and food Preparation	(a), relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.

Subject (1)	Qualifications (2)
(5) Interior Decoration	(a), relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc, (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.
(6).Dress Designing and Making	(a), relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational- subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience, (or a period of one year in the relevant field.
(7). Designing, Dyeing and printing	(a), relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b), practical experience for a period of one year in the relevant field.

Subject (1)	Qualifications (2)
(8).Textile And Designs	(a), relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.
(9). Child Welfare AND Nutrition	(a), relevant degree from a recognized university in the state or a degree of equivalent standard in the vocational subject under home science area (or) diploma in the relevant vocational subject awarded by the state board of technical education or any other recognized board or institution or B.Sc. (Home Science) from a recognized university in the state or a degree of equivalent standard; and (b). practical experience for a period of one year in the relevant field.
VOCATIONAL INSTRUCTORS FOR COMMERCE AND BUSINESS	
1 (a) office secretaryship with accountancy	A degree in commerce from a recognized university in the state or a degree of equivalent standard.
(b) office secretaryship with typewriting (English / Tamil)	1) any degree from a recognized university in the state or a degree of equivalent standard; and (2) typewriting Higher grade in English/Tamil and T.T.C. (1)any degree from a recognized, university in the state or a degree of equivalent standard
(c) office secretaryship with shorthand (English / Tamil)	(2) 100 words per minute in shorthand in English / Tamil; and (3)T.T.C. in short hand

Subject (1)	Qualifications (2)
2 Insurance	(1) a degree in commerce with specialization in insurance from a recognized university in the state or a degree of equivalent standard; or (2) a degree from a Recognized university in the state or a degree of equivalent standard with a diploma in insurance from a recognized institution.
3. Accountancy and auditing	A degree in commerce from a recognized university in the state or a degree or equivalent standard with specialization in accountancy and auditing.
4. Banking assistance	A degree in commerce from a recognized university in the state or a degree or equivalent standard with specialization in advance banking
5. International Trade	A degree in commerce from a recognized university in the state or a degree or equivalent standard with specialization in International Trade.
6. Marketing and salesmanship	A degree in commerce or Business Administration from a recognized university in the state or a degree or a degree of equivalent standard.
7. Materials management	A degree in commerce or business administration from a recognized university in the state or a degree or a degree of equivalent standard and a diploma in material management from a recognized institution.
8. Business management from small scale industries	A degree in commerce from a recognized university in the State or a degree or equivalent standard with specialization in Business administration and a diploma in material management from a recognized institution.
9. Co-operative management from small scale industries	A degree in commerce from a recognized university in the state or a degree or equivalent standard with specialization in Rural economics co-operation or equivalent degree.
VOCATIONAL INSTRUCTOR FOR AGRICULTURE	

Subject (1)	Qualifications (2)
1. Dairying	B.Sc. (Dairying) (or) B.V.Sc. Degree from a recognized university in the state or a degree of equivalent standard.
2. Poultry	B.V.Sc. Degree from a recognized university in the state or a degree of equivalent standard.
3. Small Farm Management	B.Sc. (Agriculture) Degree from a recognized university in the state or a degree of equivalent standard.
4. Agro based Industries	B.Sc. (Agriculture) Degree from a recognized university in the state or a degree of equivalent standard.
5. Farm Machanic and Post Harvest Technology	Diploma in Agriculture engineering from a recognized institution with one year practical experience
6. Rural Construction Technology and Soil Conservation	B.E. (Agriculture) Degree from a recognized university in the state or a degree of equivalent standard.
7. Sericulture and Agriculture	B.E. (Agriculture) Degree from a recognized university in the estate or a degree of equivalent standard. B.Sc. (Zoo) Degree from a recognized university in the state or a degree of equivalent standard or a Degree from a recognized university in the state or a degree of equivalent standard.
8. Plant Protection (pets, diseases and seeds)	B.E. (Agriculture) Degree from a recognized university in the state or a degree of equivalent standard.
9. Vegetable and Fruits (pets, diseases and seeds)	B.E. (Horticulure) Degree from a recognized university in the state or a degree of equivalent standard.
10. Floriculture and Medicinal Plants.	B.E. (Horticulure) Degree from a recognized university in the state or a degree of equivalent standard.

Subject (1)	Qualifications (2)
11. Agricultural Chemicals	B.E. (Agriculture) Degree from a recognized university in the state or a degree of equivalent standard.
12. Crop Production	B.E, (Agriculture) Degree from a recognized university in the state or a degree of equivalent standard.
13. Spices and plantation crops	B.E. (Horticulture) Degree from a recognized university in the state or a degree of equivalent standard.
14. Fisheries	B.Sc. (Marine Biology) (or) B.Sc. (Fisheries Science) Degree from a recognized university in the state or a degree of equivalent standard.
VOCATIONAL INSTRUCTOR FOR ENGINEERING AND TECHNOLOGY	
(1) Building Maintenance	A Diploma in Civil Engineering awarded by the state Board of Technical Education and Training. Chennai or By any other recognized institutions or Board; and one Year Practical Experience.
2) (a) electrical domestic appliances Repairs and maintenance	Diploma in Electrical Engineering awarded by the state Board of Technical Education and Training, Chennai or By any other recognized institutions or Board; and one Year Practical Experience.
(b) Maintenance and servicing of machines including generators.	Diploma in Electrical Engineering awarded by the state Board of Technical Education and Training. Chennai or By any other recognized institutions or Board; and one Year Practical Experience.
(3) Electronic Equipments projector equipment servicing and maintenance	A Diploma in Electronics/Radio or Telecommunication awarded by the state Board of Technical Education and Training. Chennai or By any other recognized institutions or Board; and one-Year Practical Experience.

Subject (1)	Qualifications (2)
(4) Radio and T.V. (Maintenance & Repairs)	A degree in Electronics and Communication Engineering from a recognised University in the state or a degree of equivalent standard Diploma in Electronics and Communication Engineering from a recognized university in the state or a degree of equivalent standard, (or) a diploma in electrical and electronic from a recognized institution with one year practical experience ; (or) A Diploma in Electronics or Electrical Engineering with post graduate Diploma in T.V. Diploma in T.V. Engineering from a recognized institution with one year practical experience.
(5) General Machinist	A Diploma in Mechanical Engineering from a recognized Institution with one year practical experience
(6) Electrical Motor Rewinding	A Diploma in Electrical Engineering from a recognized Institution and one year practical experience.
(7) Textile Technology	A Diploma in Textile Technology Degree from a recognized University in the state or a degree of equivalent standard; (or) A Diploma in Textile Technology from a recognized institution with one year practical experience.
(8) Leather Technology	A Diploma in Leather Technology Degree from a recognized University in the state or a degree of equivalent standard; (or) A Diploma in Leather Technology from a recognized Institution with one year practical experience.
(9) Maintenance and servicing Of Textile Machinery	A Diploma in Textile Technology Degree from a recognized University (or) A Diploma in Mechanical Engineering from a recognized institution; (or) A Diploma in Electrical Engineering from a recognized Institution with one year practical experience.

Subject (1)	Qualifications (2)
(10) Business Machines and Computer Programming	A B.E. Degree in Electrical / Electronics Engineering Degree from a recognized university in the state or a degree of equivalent standard; (or) A B.E, Degree in Electronics and Communication Engineering Degree from a recognized university in the state or a degree of equivalent standard (or) post graduate diploma in data processing from a recognized institution.
(11) Printing Technology (litho)	A diploma in printing technology with specialization in litho from a recognized institution or any other equivalent qualification and one year practical experience.
(12) Auto Mechanic (1)	A diploma in mechanical engineering from a recognized institution and one year practical experience ; (or) any other equivalent qualification and one year practical experience.
VOCATIONAL INSTRUCTOR FOR HEALTH	
(1) Medical lab assistance	B.Sc, (Bio Chemistry) degree from a recognized university in the state or a degree of equivalent standard.
(2). E.E.G./ E.C.G./ Audio metry technician	A degree in science degree from a recognized university in the state or a degree of equivalent standard with diploma in audio metry technician from a recognized institution with one year practical experience.
(3). Ophthalmic Technician	A degree in science with specialization in optometries degree from a recognized university in the state or a degree of equivalent standard with diploma in Ophthalmics from a recognized institution with one year practical experience.
(4) Dental Mechanic	Diploma in Dental Equipment Technology from a recognized institution and one year practical experience.
(5) Dental Hygienists	B.D.S.

Subject (1)	Qualifications (2)
(6) Radiological Assistance	A degree in science with specialization in Radiology recognized university in the state or a degree of equivalent standard ; (or) A diploma in Medical Radiology from a recognized institution with one year practical experience.
(7) Nursing Course	B.Sc. (Nursing) degree from a recognized university in the state or a degree of equivalent standard.
(8) Hospital House Keeping	A degree in science with Diploma in Hospital House Keeping Management From a recognized institution.
VOCATIONAL INSTRUCTOR FOR PHOTOGRAPHY AND MUSIC	
(1) Photography	A Diploma in Cinematography From a recognized institution with one year practical experience.
(2) Music	A Degree in Music Degree From a recognized university in the state or a degree of equivalent standard; (or) Diploma in Music from a recognized institutions; (or) Sangeetha Siromani Title o f Madra University; (or) Sangeetha Vidwan Title of Tamil Nadu Music College; (or) Sangeetha Bhushanam of Annamalai University with one year Practical Experience.

6. Reservation of appointments:-

The rule relating to reservation of appointments (general Rule 22) shall apply for appointment to the post by direct recruitment (to all categories of the service , the appointments to each category being as on unit).

7. Probation:-

Every person appointed to the post shall, from the date on which he joins duty, be on probation for a total period of two years on duty with in a continuous period of three years.

8. Pay :-

There shall be paid to the holders of the post specified in column (2) of the table below a monthly pay calculated in the scale of pay specified in the corresponding entries in column

(3) thereof:

Sl. No. (1)	Posts (2)	Scale of Pay (3)
(1)	Vocational instructors for Home science	Prior to 1.1.96 is Rs.1400-40-1600-50-2300-60-2600 after 1.1.96 is Rs. 5500 175 -9000.
(2)	Vocational instructors for Commerce and Business	prior to 1.1.96 is Rs.1400-40-1600-50-2300-60-2600 after 1.1.96 is Rs. 5500 175-9000.
(3)	Vocational instructors for Agriculture	prior to 1.1.96 is Rs.1400-40-1600-50-2300-60-2600 after 1.1.96 is Rs. 5500 175 -9000.
(4)	Vocational instructors for Engineering and Technology	prior to 1.1.96 is Rs.1400-40-1600-50-2300-60-2600 after 1.1.96 is Rs.5 500 175-9000.
(5)	Vocational instructors for Health	prior to 1.1,96 is Rs.1400-40-1600-50-2300-60-2600 after 1.1.96 is Rs. 5500 175-9000.
(6)	Vocational instructors for Photography and Music	prior to 1.1.96 is Rs.1400-40-1600-50-2300-60-2600 after 1.1.96 is Rs. 5500 175-9000.

9. Saving: Nothing contained in these rules shall adversely affect any person holding the post on the date of issue of these rules.

(By order of the Governor)

M.A. GOWRISHANKAR,
SECRETARY TO GOVERNMENT

To
The Director of School Education, Chennai 6.

The works manager
Government central press,
Chennai 79.

<https://hcservices.ecourts.gov.in/hcservices/>
(For Publication in the Tamil Nadu Government

Gazette)

The Accountant General, Chennai -18.
The Accountant General (CAD), Chennai -9;
The Pay and Accounts officer (North), Chennai -79.
The Pay and Accounts officer (South), Chennai -8.
The Pay and Accounts Officer (East), Chennai-5.
The Pay and Accounts Officer, Madurai

Copy to: Personnel and Administrative
Reforms Department

Law Department, Chennai -9

// FORWARDED BY ORDER II

SECTION OFFICER

9. Subsequently, Government have issued G.O.Ms.No.185, School Education (BE) Department, dated 25.08.2008, enabling vocational teachers with PG qualification in Commerce to be considered for promotion to the post of PG Assistant, in Higher Secondary service. Said G.O., is extracted hereunder.

Government of Tamil Nadu

Abstract

Vocational Education - Higher Secondary School
Education Vocational Education Instructor
(Commerce) - appointment on work transfer as Post
Graduate Instructor (Commerce) in Tamil Nadu
Higher Secondary Education Services - Order -
issued

School Education (PE) Department

G.O. (Ms.) No.185

Date:25.8.2008

Thiruvalluvar

Year

9th Avani

Read:-

1.Letter No. 10760/E2/07 dated 13.3.2008 and
12.6.2008 of the

Director of School Education

2.Government Letter No.11612/VE/08-2 School
Education

Department dated 19.5.2008

ORDER:

The Government has issued the notification during the subsidy 2008-2009 question hours in the Assembly that " the Instructors who teach the Commerce and business in the Vocational Educational Department in the Higher Secondary Schools will be added in the qualified list for the post of teachers teaching Masters in Commerce

and Business."

2. The Director of School Education in his report with respect to the implementation of the above notification has stated that the Tamil Nadu School Education Subordinate Service Rules are applicable to the Vocational Instructor Commerce and Business and that in the Tamil Nadu School Education Subordinate Service Rules it is stated that as far as the School Assistant Teachers/Tamil Teacher/Teacher Trainers are concerned the essential Educational Qualification for them is fixed is minimum of B. Ed and if they are having all the qualifications for the promotion only they are regularised in the posts they are appointed. Based on this the seniority list for the next promotion post are prepared from the date of the Regularization of their post. But for the Vocational Instructors, before they obtain the B. Ed qualification for the regularization of their posts, they are regularised in the Vocational Instructor post subject to other Rules. Therefore in order to consider the post of the Vocational Instructor (Commerce and business) as the Feeder Category for the appointing to the post of teachers teaching Masters in Commerce and Business, the Vocational Instructors those who have completed M.Com, B. Ed before they have been regularised, then the date of the regularization of the post should be taken as the base and those who have completed their M.Com, B. Ed after their post has been regularised then the date of attaining the qualification shall be based and as far as the posts of School Assistant Teachers/Tamil Teacher/Teacher Trainers are concerned the date of regularisation of those post and hence based on the above an integrated list of the qualified for the post of the teachers teaching Masters in Commerce and business can be prepared and thus the Director of School Education has requested the government to issue an order to appoint the Vocational Instructors in Commerce subject in the Higher Secondary Schools as the Post Graduate Instructor in Masters in Commerce and business on work transfer.

3. The above suggestion of the Director of School Education was carefully examined by the Government and has accepted and is issuing the order as follows.

1) In order to give appointment on work transfer in the post of the post graduate teacher in Commerce and business subjects in Tamil Nadu

Higher Education Services the post of Vocational Instructors teaching Commerce and Business are taken as the Feeder Category.

2) In order to consider as above the Vocational Instructors of Commerce and business subjects should obtain the Graduation and post Graduation Degree in Commerce subject and also should obtain the B Ed Degree.

3) The Government issues the order that in order to give appointment on work transfer in the post of the post graduate teacher in Commerce and business subjects, as far as the Vocational teachers are concerned they can be given the post as above subject to the condition that the Vocational Instructors those who have completed M.Com, B. Ed before they have been regularised , then the date of the regularization of the post should be taken as the base and those who have completed their M.Com, B. Ed after their post has been regularised then the date of attaining the qualification shall be based and as far as the posts of School Assistant Teachers/ Tamil Teacher/Teacher Trainers are concerned the date of regularisation of those post and hence based on the above an integrated list of the qualified for the post of the teachers teaching Masters in Commerce and business should be prepared.

4) The Director of School Education, Chennai -06 is requested to send the necessary draft amendments in Rules to the Government immediately.

5. This order is issued with the sanction of Personnel and Administrative Reforms Department G.C. No. 42952/E/08 dated 18.8.2009

/By order of Governor/

M. Kutralingam
Secretary to Government

10. Petitioner has acquired BA, MA in English and also possess B.Ed., Qualifications and claims that Vocational Instructors, who possess the required qualifications for the post of P.G.Assistant in Higher Secondary Service in all the subjects should be considered for promotion, like in the case of commerce subjects also and thus, there is discrimination.

11. First of all G.O.Ms.No.185, School Education (BE) Department, dated 25.08.2008, has not been challenged on the grounds of arbitrariness or violation of Article 14 of the Constitution of India. According to the respondents, Vocational Instructors of subjects other than Commerce is not a feeder category for promotion to the post of PG Assistants in other subjects.

12. Request of the petitioner to consider his case for promotion to the post of PG Assistant in School Education department has been rejected vide order of the Secretary to Government of Tamil Nadu, School Education Department, Chennai, the first respondent, dated 23.06.2011 and the same is as under.

School Education Department
Secretariat,
Chennai - 600 009

Letter No. 3047/HSE2/2011-2 dated 23.6.2011

From
Mrs. T. Sabitha, I.A.S.,
Secretary to Government

To
Mr. C.M. Anbarasan,
Vocational Teacher Grade - I (General mechanics)
Government Higher Secondary School,
Jeyamkondam -621 802
Ariyallur District

Sir,

Sub: Tamil Nadu Higher Secondary
Educational Services -
Ariyallur District - Jayamkondam -
Government Higher
Secondary School - Mr.S.M. Anbarasan -
Vocational
Teacher Grade -1 - orders issued in the
case No. 29555/10
filed seeking the promotion for the post
of Post Graduate
teacher (English) - Reg.

Ref: 1. Your petition dated 30.9.2010
2. Order in W.P. No. 29555/10 of High
Court of Madras
dated 23.12.2010
3. Letter No. R.C. No. 8583/W3/E1/20U
dated 21.3.2011
of Director of School Education

In your petition cited in Ref 1 above, it is stated that the post of Vocational Teacher Grade -I is considered equivalent to the Graduate Teachers in respect of pay scale 12 and the eligibility in giving attestation and that since there is no opportunity and facility in the Vocational Education Department where he works to learn appropriate Engineering based higher education and hence he is not continue his

studies, but however due to the interest in the English Subject, he has studied and passed the B.A English (May 2000) M.A. English (May 2009) and has studied English as the vocational subject in B.Ed (December 2004) by way of correspondence course. Further it is stated that the promotion post for the teachers teaching Commerce and business is Post Graduate Teacher (Commerce and business) and that he also was appointed in the similar way and is working in the similar pay scale and that he also is eligible for the post of post graduate teacher on promotion. Further the Graduate teachers irrespective of the subjects they are teaching and though the higher education made by them are cross major also, they are given the promotion of post graduate teacher post and similarly he has sought to issue the order to give promotion for the subject he has made his higher education irrespective of the subject he is teaching.

2. In the order issued in the Writ Petition No. 29555/10 filed by you seeking promotion as the post graduate teacher dated 23.12.2010 it is directed that the Secretary to Government, who is the 1st Respondent in the case should examine the petition of the petitioner as per the G.O.(Ms.) No.132 Education, Science and Technology Department dated 21.2.1995 and issue the order to give the promotion on the condition that the petitioner should have obtained the eligibility for the post of the Post graduate Teacher (English) and based on the law and eligibility, within 12 weeks of receipt of this order.

3. In connection with the request of the petitioner the Director of School Education has issued the report as follows.

(i) (a) The petitioner Mr. S.M. Anbarasan, Vocational Teacher is working as the Vocational Instructor General Mechanics Grade -I in the Vocational Department from 5.10.1996.

b) He has completed the probation in the post of Vocational Instructor on 4.10.1998.

c) This teacher has obtained the education qualifications of B.A.(English), M.A (English) and B .Ed.

d) In the Tamil Nadu Higher Education Services Special Rules it is stated in Rule 2 as follows

2. Appointment

Class II 14

2. Post Graduate Assistants in Languages	i) Direct Recruitment
	ii) Recruitment by Transfer from categories 3 and 5 of Class II of Tamil Nadu Educational Subordinate Service (Deputy Inspectors of Schools, School Assistants, Pandits, and Munshies Grade-1)

e) The G.O.(Ms.) No. 185 School Education (VE) Department dated 25.8.2008 mentioned in the petition of the above petitioner, it is ordered that in order to give appointment on work transfer from the post of the post graduate teacher in Commerce and business subjects the post of Vocational Instructor (Commerce and business) should be considered as the Feeder Category and should give the promotion of the post of Post graduate teacher in Commerce and business.

f) In the G.O.(Ms.) No. 132 Education, Science and Technology Department, dated 21.2.1995 mentioned in the order issued by the Court, it is stated that 10% of the vacancies under direct recruitment of the posts of School Assistants in Tamil Nadu School Educational Subordinate Service and 10% of service under direct Recruitment of the posts of post Graduate Assistants in academic subjects and languages in Tamil Nadu Higher Secondary Educational Service be reserved for the appointment of qualified and eligible Secondary Grade Teachers under Tamil Nadu Elementary Educational Subordinate Service.

(ii) there is no separate Rules are framed for the Vocational Teachers alone. Only temporary rules are framed. Only the posts of Deputy Inspectors of Schools, School Assistants, Pandits, and Munshies Grade -1 in Tamil Nadu Educational Subordinate Service are only given as the Feeder Category in the Tamil Nadu Higher Education Services to give the promotion as the Post Graduate teachers in English Subject on work transfer. Since the Vocational teacher Grade -1 is not the Feeder Category and hence it is not possible to give the promotion as the post graduate Teacher. Further as per G.O.(Ms.) No. 185 School Education (VE) Department dated 25.8.2008 only the post of Vocational Instructor (Commerce and business) alone will get the promotion as Post Graduate Teacher (Commerce and business) on work

transfer. The vocational teachers working in other subjects cannot be given the promotion as post graduate teachers. Further as per the G.O.(Ms.) No. 132 Education, Science and Technology Department, dated 21.2.1995, since it is ordered to be reserved for the appointment of qualified and eligible 16 Secondary Grade Teachers under Tamil Nadu Elementary Educational Subordinate Service 10% out of 50% and hence only to the Secondary grade teachers alone can be given the promotion on work transfer. The Vocational Teachers cannot be given the post of Post Graduate teachers on work transfer.

4. As per the order issued by the High Court of Madras dated 23.12.2010 your petition dated 30.9.2010 was examined in detail and carefully by the Government. The G.O.(Ms.) No. 132 Education, Science and Technology Department, dated 21.2.1995 mentioned in the order of the High Court of Madras is not applicable in this case. Further since there is no provision as per the Tamil Nadu Higher Education Service Special Rules to give the promotion as the post Graduate (English) from the post of Vocational Teacher and hence I have been entrusted to inform you that your petition seeking the promotion as Post Graduate teacher is not accepted by the Government.

Yours faithfully

Sd/-

For Secretary to Government

Copy to:
Director of School Education
Chennai -06

13. Prescription of qualifications, age, structuring of the department is purely the domain of the employer. Reference can be made to a decision of the Hon'ble Supreme Court in P.U.Joshi and others vs. Accountant General Ahmedabad and others reported in (2003) 2 Supreme Court cases 632, wherein the Hon'ble Supreme Court, held that prescription of educational / other qualifications is purely the prerogative of the Government and that it is not open to the petitioner or any other applicant to suggest what should be the educational or other qualifications required for the post. At paragraph No.10 of the judgement, the Hon'ble Supreme Court held as follows:

"Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy

is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment of eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

14. P.U.Joshi's case has been considered in Chandigarh Admn. v. Usha Kheterpal Waie, reported in (2011) 9 SCC 645 , wherein at paragraph No.12, the Hon'ble Supreme Court held thus,

"12It is now well settled that it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment.

Courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the concerned authority so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with

the functions and duties attached to the post and are not violative of any provision of Constitution, statute and Rules. ..."

15. The contention of the petitioner that if Vocational Instructors with PG qualifications, do not have any promotional opportunities, then they would be stagnated, has to be addressed only by the Government. Going through the order impugned and on the material on record, we cannot hold the rejection order dated 23.06.2011 passed by the Secretary to Government of Tamil Nadu, School Education Department, Chennai, the first respondent, as incorrect.

16. Though the petitioner has contended that Vocational Instructors in all the subjects are given the same scale of pay, equivalent to B.T.Assistants and therefore, they should be considered for promotion to the post of PG Assistant, in the School Education Department, when they possess the required qualification, it is for the Government to consider the same.

17. Writ Appeal is dismissed with liberty to the appellant to approach the Government, on the aspect of discrimination in considering Vocational Instructor (Commerce) in B.T Assistant Scale only to the post of PG Assistants in Commerce and denying the said benefit to the Vocational Instructors (English) or other allied subjects working in Higher Secondary Educational Services, with the same scale of B.T.Assistant. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

ars
To

1.The Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

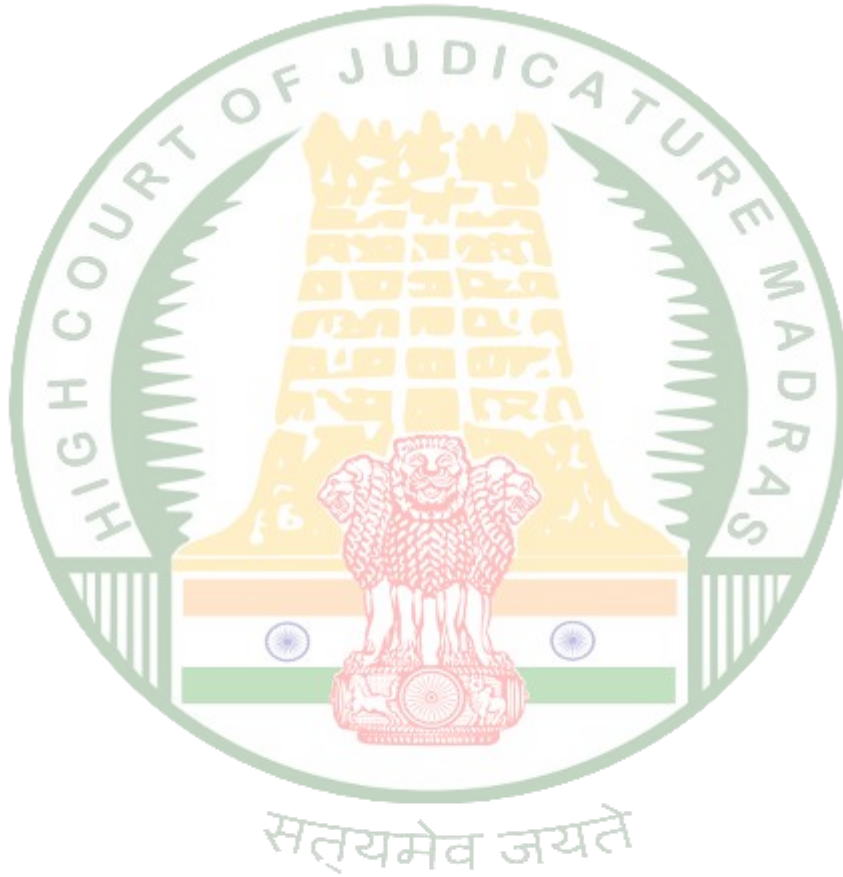
3.The Joint Director of School Education,
(Vocational Education),
DPI Campus, College Road,
Chennai - 600 006.

4.The Joint Director of School Education,
(Higher Secondary),
DPI Campus, College Road,
Chennai - 600 006.

+1cc to Mr. G.Sankaran, Advocate SR.No. 762
+1 cc to Government Pleader SR.NO. 1003

W.A.No.2860 of 2018
and C.M.P.No.23757 of 2018

nrl (CO)
A.SK(23/04/2019)



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